

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
VALDOSTA DIVISION

JERRY JOHNNY THOMPSON, JR.,

Petitioner,

VS.

UNITED STATES OF AMERICA.

Respondent.

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7: 07-CV-90014 (HL)

28 U.S.C. § 2255

7: 05-CR-9-002 (HL)

RECOMMENDATION

Currently pending before the Court is Petitioner’s Motion to Vacate under 28 U.S.C. § 2255. (Doc. 211). On February 3, 2009, Petitioner’s counsel in a state case requested the Court stay Petitioner’s federal evidentiary hearing until Petitioner’s state death penalty case was resolved. (Doc. 237). The Court granted Petitioner’s request on February 4, 2009, and ordered the evidentiary hearing and all further pleadings in this case stayed until the conclusion of Petitioner’s pending Georgia death penalty trial. (Doc. 238). On July 23, 2013, the Court lifted the stay and scheduled an evidentiary hearing. (Doc. 263).

The Court convened on this date for the scheduled evidentiary hearing. Mr. William Bubsey appeared for Petitioner, and Mr. Alan Dasher appeared for the government. At the outset of the hearing, counsel informed the Court that Petitioner has cooperated with the prosecution in other criminal matters, and as a result, Mr. Dasher notified the Court that the government has today filed Government's Rule 35 Motion (Doc. 266) to benefit Petitioner.

At the hearing, Mr. Bubsey verbally moved the Court to dismiss the pending § 2255 Petition. While Petitioner was not present at the hearing, Mr. Bubsey indicated to the Court

that he was moving to dismiss/withdraw the Petition with the consent of Petitioner. The government consented to Petitioner's Motion.

In light of Petitioner's oral Motion to Dismiss/Withdraw the § 2255 Petition and the consent of the government, it is the recommendation of the undersigned that Petitioner's Motion to Dismiss/Withdraw be **GRANTED** and that Petitioner's § 2255 Motion to Vacate, Set Aside, or Correct Sentence be dismissed.

Pursuant to 28 U.S.C. § 636(b)(1), the parties may file written objections to the recommendations contained herein with the Honorable Hugh Lawson, United States District Judge, WITHIN FOURTEEN (14) DAYS after being served with a copy of this Recommendation.

SO RECOMMENDED, this 6th day of November, 2013.

s/ **THOMAS Q. LANGSTAFF**
UNITED STATES MAGISTRATE JUDGE

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